



# State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

## **RESEARCH APPENDIX -** **PLEASE DO NOT REMOVE FROM DRAFTING FILE**

Date Transfer Requested: 05/12/2011 (Per: PG)

A ➡ The 2011 drafting file for LRB-1653

B ➡ The 2011 drafting file for LRB-1654

C ➡ The 2011 drafting file for LRB-1655

D ➡ The 2011 drafting file for LRB-1664

E ➡ The 2011 drafting file for LRB-1696

F ➡ The 2011 drafting file for LRB-1697

G ➡ The 2011 drafting file for LRB-1702

H ➡ The 2011 drafting file for LRB-1703

I ➡ The 2011 drafting file for LRB-1710

J ➡ The 2011 drafting file for LRB-1747

➡ Compile Draft – Appendix G

has been copied/added to the drafting file for

**2011 LRB-2066**

**2011 DRAFTING REQUEST**

**Bill**

Received: **03/18/2011**

Received By: **tkuczens**

Wanted: **As time permits**

Companion to LRB:

For: **Steve Kestell (608) 266-8530**

By/Representing: **Chris Kulow**

May Contact:

Drafter: **tkuczens**

Subject: **Education - school boards**

Addl. Drafters:

Extra Copies: **pg**

Submit via email: **YES**

Requester's email: **Rep.Kestell@legis.wisconsin.gov**

Carbon copy (CC:) to: **tracy.kuczenski@legis.wisconsin.gov**

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Permit school districts to deny enrollment to pupil expelled from out-of-state school

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**Instructions:**

See attached

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	tkuczens 03/20/2011	jdyer 03/29/2011		_____			
/P1	tkuczens 04/12/2011	jdyer 04/13/2011	rschluet 03/29/2011	_____	ggodwin 03/29/2011		
/P2	tkuczens 05/03/2011	jdyer 05/06/2011	rschluet 04/13/2011	_____	ggodwin 04/13/2011		
/P3			rschluet	_____	sbasford		

***LRB-1702***

05/09/2011 11:01:09 AM

Page 2

Vers.      Drafted      Reviewed      Typed      Proofed      Submitted      Jacketed      Required

05/09/2011 \_\_\_\_\_ 05/09/2011

FE Sent For:

<END>

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Extra Copies: **pg**Submit via email: **YES**Requester's email: **Rep.Kestell@legis.wisconsin.gov**Carbon copy (CC:) to: **tracy.kuczanski@legis.wisconsin.gov****Pre Topic:**

No specific pre topic given

**Topic:**

Permit school districts to deny enrollment to pupil expelled from out-of-state school

**Instructions:**

See attached

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/P1	tkuczens 04/12/2011	jdye 04/13/2011	rschluet 03/29/2011		ggodwin 03/29/2011		
/P2			rschluet 04/13/2011		ggodwin 04/13/2011		

*Handwritten notes:*  
 P3 5/5 ju  
 rschluet  
 04/13/2011  
 pr  
 5/9

***LRB-1702***

04/13/2011 03:08:56 PM

Page 2

FE Sent For:

<END>

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**Bill**

Received: **03/18/2011**

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For: **Steve Kestell (608) 266-8530**

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**Instructions:**

See attached

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FE Sent For:			4/31	mel 4/13			

**<END>**

**2011 DRAFTING REQUEST**

**Bill**

Received: 03/18/2011

Received By: **tkuczens**

Wanted: **As time permits**

Companion to LRB:

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Permit school districts to deny enrollment to pupil expelled from out-of-state school


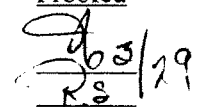
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**Instructions:**

See attached

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1/2	tkuczens	P1 3/29 jlw					

FE Sent For:

<END>

## Kuczenski, Tracy

**From:** Kulow, Chris  
**Sent:** Friday, March 11, 2011 9:02 AM  
**To:** Grant, Peter; Kuczenski, Tracy  
**Subject:** Education Omnibus Bill  
**Attachments:** Eduomnibus.doc  
 Peter/Tracy,

Hopefully you didn't quit or jump out a window after seeing the subject line of this email. This is a list of primarily mandate relief initiatives that we want to do in one omnibus bill. Let me know if you need more direction on any of these items listed.

Also, could you update me on the progress of our "misuse of school district technology" (looking at porn at school) draft? I know there were some questions in the past and just want to make sure you have what you need.

Thanks,

Christopher Kulow  
 Office of State Representative Steve Kestell  
 15 West - State Capitol; 266-8530  
<http://kestell.assembly.wisconsin.gov>

Tk ✓ 19) Requirement that school boards must enroll pupils expelled by out-of-state public schools (s. 120.13, Wis. Stats.)

Section 120.13 (1) (f), Wis. Stats., provides that:

"No school board is required to enroll a pupil during the term of his or her expulsion from another school district. Notwithstanding s. 118.125 (2) and (4), if a pupil who has been expelled from one school district seeks to enroll in another school district during the term of his or her expulsion, upon request the school board of the former school district shall provide the school board of the latter school district with a copy of the expulsion findings and order, a written explanation of the reasons why the pupil was expelled and the length of the term of the expulsion."

Change so that if a student gets expelled for the year in another state for something that would also have gotten them expelled for the year in Wisconsin, a Wisconsin public school district can use that expulsion to deny enrollment if they so choose.

- public or private school in another state?
- grounds for expulsion under 120.13(1)(c) 1, 2, 4m
- what if procedural safeguards in other state are not as "generous"?

3/11/2011





State of Wisconsin  
2009 - 2010 LEGISLATURE

2011-2012

1702/PI  
LRB-21721  
TKK:kj/mnd  
RMNR  
d-note

2009 BILL

2011

3/20/2011

✓

Gen

- 1 AN ACT *to renumber* 120.13 (1) (f); and *to create* 120.13 (1) (f) 2. of the statutes;  
2 **relating to:** permitting a school board to deny enrollment to a pupil who has  
3 been expelled from an out-of-state school. ✓

***Analysis by the Legislative Reference Bureau***

Under current law, a school board may refuse to enroll a pupil during the term of the pupil's expulsion from another school district. ✓ In an opinion issued on April 10, 2008, the Wisconsin attorney general determined that current law does not permit a school district to refuse to enroll a pupil who is currently expelled from a private school or an out-of-state school. ✓

This bill authorizes a school board to refuse to enroll a pupil during the term of the pupil's expulsion from a public school in another state. ✓

expulsion would have been grounds for expulsion in this state

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

- 4 SECTION 1. 120.13 (1) (f) ✓ of the statutes is renumbered 120.13 (1) (f) 1.  
5 SECTION 2. 120.13 (1) (f) 2. ✓ of the statutes is created to read:

**BILL**

1 120.13 (1) (f) 2. No school board is required to enroll a pupil during the term

2 of his or her expulsion from a public school in another state<sup>✓</sup>

3

(END)

if the school board determines  
the conduct giving rise to the  
pupil's expulsion would have been  
grounds for expulsion under par (c) 10<sup>✓</sup>  
20<sup>✓</sup> or 2m<sup>✓</sup>

D-note



**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

date

A  
LRB-1702/dn

TKK: n:...

jld

Representative Kestell: ✓

As requested, this draft amends s. 120.13 (1) (f) ✓ to permit a school board to deny enrollment to a pupil during the term of his or her expulsion from a school in another state if the school board determines the conduct giving rise to the pupil's expulsion would have been grounds for expulsion in this state. ✓ As you may be aware, in an opinion issued on April 10, 2008, ✓ the Wisconsin attorney general indicated that current law did not permit a school board to deny enrollment to a pupil expelled from a public or private school in another state. ✓ See OAG-5-08.

It was not clear from your instructions whether you wanted to permit a school board in Wisconsin to deny enrollment to a pupil expelled from a ✓ *public* school in another state or if you also wanted to permit a school board in Wisconsin to deny enrollment to a pupil expelled from a ✓ *private* school in another state. As drafted, this provision will only apply to a pupil expelled from a public school in another state. ✓ With this in mind, I have the following questions:

1. Current law does not permit a school board to deny enrollment to a pupil expelled from a ✓ *private* school in this state or another state. ✓ Do you wish to grant school boards such authority?
2. Current law does not explicitly authorize an independent charter school, established under s. 118.40 (2r) ✓, to refuse to enroll a pupil who is currently expelled from *any* school. ✓ Do you wish to grant independent charter schools this authority?
3. It is not clear that current law authorizes a school board to deny enrollment to a pupil who is currently expelled from an independent charter school. Do you wish to explicitly grant school boards this authority? ✓

Tracy K. Kuczenski  
Legislative Attorney  
Phone: (608) 266-9867  
E-mail: tracy.kuczenski@legis.wisconsin.gov

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1702/P1dn  
TKK:jld:rs

March 29, 2011

Representative Kestell:

As requested, this draft amends s. 120.13 (1) (f) to permit a school board to deny enrollment to a pupil during the term of his or her expulsion from a school in another state if the school board determines the conduct giving rise to the pupil's expulsion would have been grounds for expulsion in this state. As you may be aware, in an opinion issued on April 10, 2008, the Wisconsin attorney general indicated that current law did not permit a school board to deny enrollment to a pupil expelled from a public or private school in another state. See OAG-5-08.

It was not clear from your instructions whether you wanted to permit a school board in Wisconsin to deny enrollment to a pupil expelled from a *public* school in another state or if you also wanted to permit a school board in Wisconsin to deny enrollment to a pupil expelled from a *private* school in another state. As drafted, this provision will only apply to a pupil expelled from a public school in another state. With this in mind, I have the following questions:

1. Current law does not permit a school board to deny enrollment to a pupil expelled from a *private* school in this state or another state. Do you wish to grant school boards such authority?
2. Current law does not explicitly authorize an independent charter school, established under s. 118.40 (2r), to refuse to enroll a pupil who is currently expelled from *any* school. Do you wish to grant independent charter schools this authority?
3. It is not clear that current law authorizes a school board to deny enrollment to a pupil who is currently expelled from an independent charter school. Do you wish to explicitly grant school boards this authority?

Tracy K. Kuczenski  
Legislative Attorney  
Phone: (608) 266-9867  
E-mail: [tracy.kuczenski@legis.wisconsin.gov](mailto:tracy.kuczenski@legis.wisconsin.gov)

## Kuczenski, Tracy

**From:** Kulow, Chris  
**Sent:** Friday, April 01, 2011 1:08 PM  
**To:** Kuczenski, Tracy  
**Subject:** FW: Permit school districts to deny enrollment to pupil expelled from out-of-state school  
 Tracy,

Let me know if this answers your questions for LRB 1702.

Christopher Kulow  
 Office of State Representative Steve Kestell  
 15 West - State Capitol; 266-8530  
<http://kestell.assembly.wisconsin.gov>

**From:** Dan Rossmiller [mailto:drossmiller@wasb.org]  
**Sent:** Friday, April 01, 2011 12:55 PM  
**To:** Kulow, Chris  
**Subject:** RE: Permit school districts to deny enrollment to pupil expelled from out-of-state school

Chris,

Here are my responses to the questions Tracy raised in her drafter's note:

- (1) We do not wish to grant school boards such authority at this time. Honoring expulsions from private schools raises a question of due process. Unlike public schools here or in other states, private schools do not have minimum standards of constitutional due process that must be provided to a pupil in the expulsion process. Although this creates a class of students who get a "second chance" that is often not afforded to their public school peers, we think the due process issue is hard to surmount. OK

Further, the grounds for expulsion from private schools probably include grounds that generally wouldn't apply in public schools so even if you assume (for argument's sake) there was due process provided you don't get a match with the public school situation. For example, a private school might be able to expel a student for failure to pay tuition. Further, because private schools don't have to abide by due process in the expulsion process, a private school might have a student code that provides, for example, that if the student's parents don't come in to confer with the principal after the second offense (or in some cases after each offense), the student may be suspended or ultimately expelled. While it might be possible to draft something based on whether the offense for which the student was expelled from the private school would be grounds for expulsion from a public school, the due process issue is thorny. OK

- (2) We think that independent public charter schools should have authority to deny enrollment to a student expelled from a public school in this state or in any other state, provided that such authority is also consistent with the terms of their charter (i.e., contract) with their authorizing entity. [I note that Bob Soldner at the DPI indicates he does not recall seeing any language to this effect in any of the charter contracts he has reviewed. An issue that may arise for independent charters that may be oversubscribed is that they are legally required to admit new students on a random (e.g., lottery) basis, either under the terms of a federally funded start-up

→ maybe charter could address issue: current law r  
 → should be subject to constitutional due process if expulsion is to be carried  
 \* → create requirement that Independent Charter Schools to include such a provision in the charter

4/1/2011

grant or s. 118.40(1m)(b)9.]

- (3) Because independent charter schools are not members of the school board association (WASB) I have never had occasion to consider what legal authority, if any, controls/constrains the authority of an independent public charter school to expel students.

Again, we suspect that ordinarily it would be the language of the charter (contract) with the authorizer that controls or constrains; however, independent charter schools are public schools so due process must also be a consideration.

If there is no authority given in current statutes for the language of the charter to control on this issue or if the authority is unclear, it would seem that a range of options might be available to spell out just what the authority should be. The authority could be set, for example, with wide discretion so long as the expulsion meets prerequisites of constitutional due process. Alternatively, this authority could be defined according to the terms of the charters. (Those are just my suggestions. Independent charters *ok* aren't our members so I'm not entirely comfortable speaking for them.)

Yes. We wish to explicitly grant school boards this authority. We don't see a problem with a school board being permitted to honor the expulsion from a public charter school that had to comply with constitutional due process so long as the basis for expulsion would have been grounds for expulsion from the school district under s. 120.13.

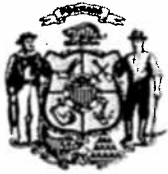
Hope this is helpful.

(1)

Dan

ch. 118 (118.40(2r)) governing body

(2r)(4)2.



State of Wisconsin  
2011 - 2012 LEGISLATURE



LRB-1702/P1

P2

TKK:jld:rs

RM-112

insert

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

4/12/11

soon

Reger

AN ACT *to renumber* 120.13 (1) (f); and *to create* 120.13 (1) (f) 2. of the statutes;

*relating to:* permitting a school board to deny enrollment to a pupil who has  
been expelled from an out-of-state school *or from an independent charter school in this state*  
*and permitting an independent charter school to expel a pupil*

**Analysis by the Legislative Reference Bureau**

*Also* Under current law, a school board may refuse to enroll a pupil during the term of the pupil's expulsion from another school district. In an opinion issued on April 10, 2008, the Wisconsin attorney general determined that current law does not permit a school district to refuse to enroll a pupil who is currently expelled from a private school or an out-of-state school.

This bill authorizes a school board to refuse to enroll a pupil during the term of the pupil's expulsion from a public school in another state if the grounds for the pupil's expulsion would have been grounds for expulsion in this state.

**The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:**

4 SECTION 1. 120.13 (1) (f) of the statutes is renumbered 120.13 (1) (f) 1.

5 SECTION 2. 120.13 (1) (f) 2 <sup>and 30</sup> of the statutes <sup>are</sup> ~~is~~ created to read:

6 120.13 (1) (f) 2. No school board is required to enroll a pupil during the term

7 of his or her expulsion from a public school in another state if the school board

- 1 determines the conduct giving rise to the pupil's expulsion would have been grounds
- 2 for expulsion under par. (c) 1., 2., or 2m.

3

(END)

Insert 2-3

✓



2011-2012 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-1702/P2ins  
TKK:jld:rs

1           **Insert analysis A**

¶ Under current law, a school board may expel a pupil only if the pupil engaged in certain prohibited conduct while at school or while under the supervision of a school authority. Generally, the prohibited conduct is conduct ~~which~~ <sup>that</sup> endangers the property, health, or safety of others or interferes with the ability of school authorities to maintain order or an educational atmosphere at school. Prior to expelling a pupil, the school board must follow certain procedures. These procedures include holding an expulsion hearing and providing the pupil and, if the pupil is a minor, his or her parent, with written and timely notice of the hearing.

2           **Insert analysis B**

¶ Current law permits the University of Wisconsin (UW)-Milwaukee, UW-Parkside, the Milwaukee Area Technical College, and the city of Milwaukee to operate charter schools (independent charter schools) directly or to contract for the operation of charter schools. Generally, charter schools operate with fewer constraints than traditional public schools. Current law does not explicitly authorize an independent charter school to expel a pupil. This bill permits an independent charter school to include in its charter or contract grounds for expelling a pupil provided the grounds duplicate the grounds provided under current law to school boards. If a charter or contract of an independent charter school includes grounds for expelling a pupil, the charter or contract must also include the same procedural requirements established for the expulsion of a pupil by a school board under current law.

3           **Insert analysis C**

NO  
¶ This bill also permits a school board to refuse to enroll a pupil during the term of the pupil's expulsion from an independent charter school if the charter or contract of the independent charter school contains the grounds for expulsion and procedural requirements identified above and if the school board determines that the grounds for the pupil's expulsion would have been grounds for expulsion by the school board.

4           **Insert 1-4**

5           **SECTION 1.** 118.40 (2r) (b) 2m. of the statutes is created to read:

6           118.40 (2r) (b) 2m. a. A charter or contract may include grounds for expelling  
7           a pupil from the charter school, but the charter or contract may not include as a  
8           ground for expulsion any ground for expulsion other than the grounds for expulsion  
9           under s. 120.13 (1) (c) 1., 2., or 2m.

↓

1 b. If the <sup>✓</sup>charter or contract includes grounds for expelling a pupil from the  
2 charter school as permitted under subd. 2m. a. <sup>✓</sup>, the charter or contract shall include  
3 the procedures to be followed by the charter school prior to expelling a pupil. The  
4 procedures required under this subd. 2m. b. <sup>✓</sup> shall conform to the procedures specified  
5 under s. 120.13 (1) (c) 3. and 4. <sup>✓</sup> or to the procedures specified under s. <sup>✓</sup> 120.13 (1) (e).

(end ins 1-4)  
Insert 2-3

7 3. No school board is required to enroll a pupil during the term of his or her  
8 expulsion from a charter school established under s. <sup>✓</sup> 118.40 (2r) if all of the following  
9 apply:

10 a. The charter or contract for the charter school contains the provisions  
11 specified under s. 118.40 (1m) (c). <sup>✓</sup>

12 b. The school board determines that the conduct giving rise to the pupil's  
13 expulsion would have been grounds for expulsion under par. (c) <sup>✓</sup> 1., <sup>✓</sup> 2., or <sup>✓</sup> 2m.

14 c. The school board determines that the charter school complied with the  
15 procedures established in the charter or contract. <sup>✓</sup>

16 **SECTION 2. Initial applicability.**

(17) (1) The treatment of sections <sup>✓</sup> 118.40 (2r) (b) 2m. <sup>✓</sup> of the statutes first applies to  
18 a charter or contract to establish and operate a charter school that is entered into,  
19 modified, or renewed on the effective date of this subsection. <sup>✓</sup>

(end ins 2-3)

## Kuczenski, Tracy

**From:** Kulow, Chris  
**Sent:** Wednesday, April 20, 2011 4:13 PM  
**To:** Kuczenski, Tracy  
**Subject:** FW: Draft review: LRB 11-1702/P2 Topic: Permit school districts to deny enrollment to pupil expelled from out-of-state school  
**Attachments:** 4271\_001.pdf  
 Tracy,

See below. Feel free to call myself or Dan directly (if you want actual answers) if you have any questions.

Thanks!

Christopher Kulow  
 Office of State Representative Steve Kestell  
 15 West - State Capitol; 266-8530  
<http://kestell.assembly.wisconsin.gov>

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**From:** Dan Rossmiller [mailto:drossmiller@wasb.org]  
**Sent:** Tuesday, April 19, 2011 2:50 PM  
**To:** Kulow, Chris  
**Cc:** Joe Quick  
**Subject:** RE: Draft review: LRB 11-1702/P2 Topic: Permit school districts to deny enrollment to pupil expelled from out-of-state school

Chris:

I have reviewed LRB draft 1702/P2 and believe some changes should be made to section 3 of the bill, specifically to newly created section 120.13(1)(f)3, Stats. I have attached a pdf copy of the draft with the changes indicated.

- ✓ The rationale for these changes is that the draft establishes the required grounds and required procedure that independent charter schools must use to expel a student. We believe that placing the burden of verifying that the independent charter school applied the grounds and followed the procedures specified in the draft on a public school board is unnecessary. (Tkk: keep 120.13(1)(f)3.a., which ests. that the charter school is in compliance w/ procedural reqs.)

It would be useful if the newly created section (120.13(1)(f)3, Stats.) included language similar to the language found in the second sentence of the current section 120.13(1)(f), Stats. That language provides an exception to the pupil records law that requires the district that expelled a pupil to provide information about the expulsion to the school board of the new district considering the enrollment of the expelled student.

We suggest adding the following new sentence (or the equivalent) at the end of the newly created section 120.13(1)(f)3, Stats.:

"Notwithstanding s. 118.125 (2) and (4), if a pupil who has been expelled from a charter school established under s. 118.40(2r) seeks to enroll in a school district during the term of his or her expulsion, upon request the governing body of the charter school established under s. 118.40 (2r) shall provide the school board of the school district with a copy of the expulsion findings and order, a written explanation of the reasons why the pupil was expelled and the length of the term of the expulsion."

4/25/2011

As we reviewed expulsion issues further, we identified two other changes you may want to consider:

1. Initial applicability

OK The draft is explicit that a school board's authority to deny enrollment is limited to the term of the expulsion. We are aware, however, that some in-state expulsion orders specify that the term of the expulsion is until the pupil reaches age 20. We don't know much about the length of expulsions from out-of-state districts. For that reason, it may be best to apply the new authority to deny enrollment on a prospective basis only (going forward not backward). Without such a clarification, the draft might be interpreted to permit a district to revoke an enrollment it had granted under prior law. That could have unintended consequences—particularly if the student was admitted a fairly long time ago. While we might simply rely on districts not to do this, it might be desirable to clarify that the change in the draft bill applies going forward and not backward.

2. Reinstatement of expulsion if the pupil doesn't meet certain conditions

Current law allows a school district to provide for "early reinstatement" of expelled pupils. In other words, a district may reinstate an expelled pupil before the expiration of the term of expulsion specified in the pupil's expulsion order and the district may impose conditions on that reinstatement.

However, current law is silent about whether a new district accepting an expelled student has any ability: a) to establish its own terms of early readmission; or b) to honor any terms of early readmission set by the district that expelled the pupil. In other words, current law is unclear about whether a new district is stuck with its decision to enroll an expelled pupil.

It would be helpful to provide school districts clear authority to admit a pupil expelled from another district or an independent charter school under an early readmission structure—enrolled with conditions—that the new district establishes. From a policy standpoint, if a new district is able to impose conditions on enrollment of a pupil expelled from another district that are similar to the conditions it might impose on its own expelled pupils, then it might be more likely to enroll expelled students. ★

The new district should not necessarily be required to adopt the "early reinstatement conditions" established by the prior district or independent charter school; however, if the pupil doesn't meet the conditions on his or her enrollment in the new district, the expulsion order of the prior district or independent charter school could be reinstated/enforced and the conditional enrollment can be revoked.

Thanks for your help.

**Dan Rossmiller**  
 Director of Government Relations  
 Wisconsin Association of School Boards  
 122 W. Washington Avenue, Suite 400  
 Madison, WI 53703  
 (608) 512-1720 (direct line)  
 (608) 257-2622 (general office line)  
 (608) 333-4923 (cell)  
 drossmiller@wasb.org

→ enroll conditionally  
 → revocation of  
 expulsion if  
 conditions not met

**From:** Kulow, Chris [mailto:Chris.Kulow@legis.wisconsin.gov]  
**Sent:** Wednesday, April 13, 2011 4:09 PM  
**To:** Dan Rossmiller

4/25/2011

**Subject:** FW: Draft review: LRB 11-1702/P2 Topic: Permit school districts to deny enrollment to pupil expelled from out-of-state school

Dan,

Let me know if this matches your intent.

Christopher Kulow  
Office of State Representative Steve Kestell  
15 West - State Capitol; 266-8530  
<http://kestell.assembly.wisconsin.gov>

---

**From:** Godwin, Gigi

**Sent:** Wednesday, April 13, 2011 3:08 PM

**To:** Rep.Kestell

**Subject:** Draft review: LRB 11-1702/P2 Topic: Permit school districts to deny enrollment to pupil expelled from out-of-state school

Following is the PDF version of draft LRB 11-1702/P2.

4/25/2011



State of Wisconsin  
2011 - 2012 LEGISLATURE



LRB-1702/P2

TKK:jld:rs

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 AN ACT *to renumber* 120.13 (1) (f); and *to create* 118.40 (2r) (b) 2m. and 120.13  
2 (1) (f) 2. and 3. of the statutes; **relating to:** permitting a school board to deny  
3 enrollment to a pupil who has been expelled from an out-of-state school or from  
4 an independent charter school in this state and permitting an independent  
5 charter school to expel a pupil.

---

***Analysis by the Legislative Reference Bureau***

Under current law, a school board may expel a pupil only if the pupil engaged in certain prohibited conduct while at school or while under the supervision of a school authority. Generally, the prohibited conduct is conduct that endangers the property, health, or safety of others or interferes with the ability of school authorities to maintain order or an educational atmosphere at school. Prior to expelling a pupil, the school board must follow certain procedures. These procedures include holding an expulsion hearing and providing the pupil and, if the pupil is a minor, his or her parent, with written and timely notice of the hearing.

Also under current law, a school board may refuse to enroll a pupil during the term of the pupil's expulsion from another school district. In an opinion issued on April 10, 2008, the Wisconsin attorney general determined that current law does not permit a school district to refuse to enroll a pupil who is currently expelled from a private school or an out-of-state school.

Current law permits the University of Wisconsin (UW)-Milwaukee, UW-Parkside, the Milwaukee Area Technical College, and the city of Milwaukee to

operate charter schools (independent charter schools) directly or to contract for the operation of charter schools. Generally, charter schools operate with fewer constraints than traditional public schools. Current law does not explicitly authorize an independent charter school to expel a pupil. This bill permits an independent charter school to include in its charter or contract grounds for expelling a pupil provided the grounds duplicate the grounds provided under current law to school boards. If a charter or contract of an independent charter school includes grounds for expelling a pupil, the charter or contract must also include the same procedural requirements established for the expulsion of a pupil by a school board under current law.

This bill authorizes a school board to refuse to enroll a pupil during the term of the pupil's expulsion from a public school in another state if the grounds for the pupil's expulsion would have been grounds for expulsion in this state. This bill also permits a school board to refuse to enroll a pupil during the term of the pupil's expulsion from an independent charter school if the charter or contract of the independent charter school contains the grounds for expulsion and procedural requirements identified above and if the school board determines that the grounds for the pupil's expulsion would have been grounds for expulsion by the school board.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1           **SECTION 1.** 118.40 (2r) (b) 2m. of the statutes is created to read:

2           118.40 (2r) (b) 2m. a. A charter or contract may include grounds for expelling  
3 a pupil from the charter school, but the charter or contract may not include as a  
4 ground for expulsion any ground for expulsion other than the grounds for expulsion  
5 under s. 120.13 (1) (c) 1., 2., or 2m.

6           b. If the charter or contract includes grounds for expelling a pupil from the  
7 charter school as permitted under subd. 2m. a., the charter or contract shall include  
8 the procedures to be followed by the charter school prior to expelling a pupil. The  
9 procedures required under this subd. 2m. b. shall conform to the procedures specified  
10 under s. 120.13 (1) (c) 3. and 4. or to the procedures specified under s. 120.13 (1) (e).

11           **SECTION 2.** 120.13 (1) (f) of the statutes is renumbered 120.13 (1) (f) 1.

12           **SECTION 3.** 120.13 (1) (f) 2. and 3. of the statutes are created to read:

1           120.13 (1) (f) 2. No school board is required to enroll a pupil during the term  
2 of his or her expulsion from a public school in another state if the school board  
3 determines the conduct giving rise to the pupil's expulsion would have been grounds  
4 for expulsion under par. (c) 1., 2., or 2m.

5           3. No school board is required to enroll a pupil during the term of his or her  
6 expulsion from a charter school established under s. 118.40 (2r), ~~if all of the following~~  
7 ~~apply:~~ <sup>(A)</sup>

8           ~~a. The charter or contract for the charter school contains the provisions~~  
9 ~~specified under s. 118.40 (1m) (c).~~

10           ~~b. The school board determines that the conduct giving rise to the pupil's~~  
11 ~~expulsion would have been grounds for expulsion under par. (c) 1., 2., or 2m.~~

12           ~~c. The school board determines that the charter school complied with the~~  
13 ~~procedures established in the charter or contract.~~

14           **SECTION 4. Initial applicability.**

15           (1) The treatment of section 118.40 (2r) (b) 2m. of the statutes first applies to  
16 a charter or contract to establish and operate a charter school that is entered into,  
17 modified, or renewed on the effective date of this subsection.

18           (END)

(A) "Notwithstanding s. 118.125 (2) and (4), if a pupil who has been expelled from a charter school established under s. 118.40(2r) seeks to enroll in a school district during the term of his or her expulsion, upon request the governing body of the charter school established under s. 118.40(2r) shall provide the school board of the school district with a copy of the expulsion findings and order, a written explanation of the reasons why the pupil was expelled and the length of the term of the expulsion."



**Kuczenski, Tracy**

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**From:** Dan Rossmiller [drossmiller@wasb.org]

**Sent:** Friday, April 29, 2011 7:27 PM

**To:** Kuczenski, Tracy; Kulow, Chris

**Subject:** RE: Omnibus Draft

*Y-ref 119. 25(2)(d) 4.*

Tracy,

Sorry I wasn't able to connect with you.

I don't think you need to worry about the funding in this draft. The funding won't be an issue unless we get the changes passed; I'll come back to revisit the funding once that happens.

It's getting late on a Friday evening so I hope this makes sense.

The foundational question is does the new district (the school district that did not expel the student) have to honor the early readmission criteria imposed by the original district in the expulsion order?

By law, a district is not required to enroll an expelled student during the term of the expulsion. Early readmission is an enrollment during the term of the expulsion. It is voluntary on the part of the school district that expelled the student so it would make sense that it would be entirely voluntary on the part of the new district (the school district that did not expel the student).

Because readmission is voluntary, we think the new district should have some latitude to decline the conditions. The reason for this is that some conditions may be related to specific programs that are available at the old district but may not be available at the new district, in which cases requiring the new district to honor those conditions makes little or no sense. We think, therefore, that it makes sense to allow the new district to adjust the criteria.

For purposes of early readmission we think the new district should be able to adjust the term downward but not upward. In other words, the new district can set a shorter period (earlier time) for readmission but cannot set a readmission/enrollment date later than the end of the term of the expulsion.

Commonly, expulsion orders provide that the student can't be readmitted until six months have passed or until a drug evaluation (or, in some cases, treatment) has taken place. If the new district is willing to accept the expelled student on a shorter time frame, it should be able to do that provided it can set its own conditions.

Our intent was to clarify that the new district (the school district that did not expel the student) should be able to adopt, modify or establish new conditions on early readmission/reinstatement. Because the original order was issued by the school district that expelled the student, the new district can't amend that order. It makes sense that the conditions set by the new district would be in a new document that should be approved by the school board of the new district.

The student and his/her parents or guardian should have to acknowledge receipt and/or understanding of the conditions in writing, and should have the same opportunity to be heard that they would have in the old district.

I hope this is helpful. Let me know if you have any questions.

4/30/2011

Dan

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**From:** Kuczenski, Tracy [mailto:Tracy.Kuczenski@legis.wisconsin.gov]  
**Sent:** Friday, April 29, 2011 2:51 PM  
**To:** Kulow, Chris  
**Cc:** Dan Rossmiller  
**Subject:** RE: Omnibus Draft

Thanks, Chris. We'll put this together as expediently as possible.

Although I have done some preliminary drafting to permit a school district other than the school district that expelled the pupil to enroll the pupil subject to the early reinstatement provisions, I have not heard back from Dan to finalize that piece of the draft; unfortunately, I am heading out for the day in about 10 minutes.

Dan, another thought occurred to me on this early reinstatement piece: if a pupil is enrolled under an early reinstatement provision by a school district other than the school district that expelled the pupil, how will the pupil be counted by the school district that did not expel the pupil? That is, where will the funding for that pupil come from? Is that something that I need to consider for this draft?

Tracy

Tracy K. Kuczenski  
*Legislative Attorney*  
Wisconsin Legislative Reference Bureau  
tracy.kuczenski@legis.wisconsin.gov  
(608) 266-9867

---

**From:** Kulow, Chris  
**Sent:** Friday, April 29, 2011 2:26 PM  
**To:** Grant, Peter; Kuczenski, Tracy  
**Cc:** Archibald, Sarah; 'Dan Rossmiller'; john.forester@wsaa.org; Kestell, Steve  
**Subject:** Omnibus Draft

Peter & Tracy:

Here is the finalized list of drafts to put together for the omnibus draft. Some of these are p drafts so there may still be questions that need to be answered. Let me know and I will try to get you those answers. Our plan right now is to hear this bill in a joint committee hearing on Monday, May 16.

Thanks for all your help!

Christopher Kulow  
Office of State Representative Steve Kestell  
15 West - State Capitol; 266-8530  
<http://kestell.assembly.wisconsin.gov>

- 1 - LRB 1653 relating to: granting high school credit for extracurricular sports.
- 2 - 1654/2 relating to: services provided by a special education program.
- 3 - 1747/P1 relating to: transportation aid paid to school districts.

4/30/2011

4 - 1655 relating to: the use of moneys received by a school district from the common school fund.

10 - 1664/2 relating to: using the results of standardized examinations to evaluate, discharge, suspend, or discipline a teacher or for the nonrenewal of a teacher's contract.

13 - 1710 relating to: the number of teaching days scheduled in the Milwaukee Public Schools.

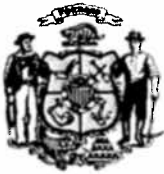
17 - 1703/P1 relating to: permitting a school district to limit the grades in which to reduce class size under the Student Achievement Guarantee in Education Program.

\*19 - 1702/P2 relating to: permitting a school board to deny enrollment to a pupil who has been expelled from an out-of-state school.

20 - 1697/P1 relating to: use of law enforcement records to take disciplinary action against a pupil under a school district's athletic code.

22 - 1696 relating to: changing the date by which a school district must certify the amount of its property tax levy.

\*-when redraft is completed by TKK



State of Wisconsin  
2011 - 2012 LEGISLATURE

DUE MONDAY



LRB-1702/P2

TKKjld:rs

in A

d-note

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

5/3/11

WATB/MSA

4

Regen

- 1 AN ACT *to renumber* 120.13 (1) (f); and *to create* 118.40 (2r) (b) 2m. and 120.13  
2 (1) (f) 2. and 3. of the statutes; **relating to:** permitting a school board to deny  
3 enrollment to a pupil who has been expelled from an out-of-state school or from  
4 an independent charter school in this state and permitting an independent  
5 charter school to expel a pupil. ✓

***Analysis by the Legislative Reference Bureau***

Under current law, a school board may expel a pupil only if the pupil engaged in certain prohibited conduct while at school or while under the supervision of a school authority. Generally, the prohibited conduct is conduct that endangers the property, health, or safety of others or interferes with the ability of school authorities to maintain order or an educational atmosphere at school. Prior to expelling a pupil, the school board must follow certain procedures. These procedures include holding an expulsion hearing and providing the pupil and, if the pupil is a minor, his or her parent, with written and timely notice of the hearing.

Also under current law, a school board may refuse to enroll a pupil during the term of the pupil's expulsion from another school district. In an opinion issued on April 10, 2008, the Wisconsin attorney general determined that current law does not permit a school district to refuse to enroll a pupil who is currently expelled from a private school or an out-of-state school.

Current law permits the University of Wisconsin (UW)-Milwaukee, UW-Parkside, the Milwaukee Area Technical College, and the city of Milwaukee to

operate charter schools (independent charter schools) directly or to contract for the operation of charter schools. Generally, charter schools operate with fewer constraints than traditional public schools. Current law does not explicitly authorize  
X an independent charter school to expel a pupil. This bill permits an independent charter school to include in its charter or contract grounds for expelling a pupil provided the grounds duplicate the grounds provided under current law to school boards. If a charter or contract of an independent charter school includes grounds for expelling a pupil, the charter or contract must also include the same procedural requirements established for the expulsion of a pupil by a school board under current law.

✓  
Insert analysis  
This bill authorizes a school board to refuse to enroll a pupil during the term of the pupil's expulsion from a public school in another state if the grounds for the pupil's expulsion would have been grounds for expulsion in this state. This bill also permits a school board to refuse to enroll a pupil during the term of the pupil's expulsion from an independent charter school if the charter or contract of the independent charter school contains the grounds for expulsion and procedural  
X requirements identified above and if the school board determines that the grounds  
X for the pupil's expulsion would have been grounds for expulsion by the school board.

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1           **SECTION 1.** 118.40 (2r) (b) 2m. of the statutes is created to read:

2           118.40 (2r) (b) 2m. a. A charter or contract may include grounds for expelling  
3 a pupil from the charter school, but the charter or contract may not include as a  
4 ground for expulsion any ground for expulsion other than the grounds for expulsion  
5 under s. 120.13 (1) (c) 1., 2., or 2m.

6           b. If the charter or contract includes grounds for expelling a pupil from the  
7 charter school as permitted under subd. 2m. a., the charter or contract shall include  
8 the procedures to be followed by the charter school prior to expelling a pupil. The  
9 procedures required under this subd. 2m. b. shall conform to the procedures specified  
10 under s. 120.13 (1) (c) 3. and 4. or to the procedures specified under s. 120.13 (1) (e).

11           **SECTION 2.** 120.13 (1) (f) of the statutes is renumbered 120.13 (1) (f) 1.

12           **SECTION 3.** 120.13 (1) (f) 2. and 3. of the statutes are created to read:

1 120.13 (1) (f) 2. No school board is required to enroll a pupil during the term  
2 of his or her expulsion from a public school in another state if the school board  
3 determines the conduct giving rise to the pupil's expulsion would have been grounds  
4 for expulsion under par. (c) 1., 2., or 2m.

5 3. No school board is required to enroll a pupil during the term of his or her  
6 expulsion from a charter school established under s. 118.40 (2r) if all of the following

7 apply: no 70 (2r)(b) 2m

8 a. The charter or contract for the charter school contains the provisions

9 specified under s. 118.40 (1m) (c)

10 b. The school board determines that the conduct giving rise to the pupil's  
11 expulsion would have been grounds for expulsion under par. (c) 1., 2., or 2m.

12 c. The school board determines that the charter school complied with the  
13 procedures established in the charter or contract.

14 **SECTION 4. Initial applicability.**

15 (1) The treatment of section 118.40 (2r) (b) 2m. of the statutes first applies to  
16 a charter or contract to establish and operate a charter school that is entered into,  
17 modified, or renewed on the effective date of this subsection.

18 (END)

Insert 3-18

D-note  
(after inserts)



**2011-2012 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1702/P3ins  
TKK:jld:rs

1           **Insert analysis**

¶ Under current law, a school board may include early reinstatement conditions in an expulsion order issued for a pupil. Current law defines "early reinstatement condition" as a condition that a pupil must meet before he or she may be granted early reinstatement or a condition that a pupil must meet after his or her early reinstatement but before the expiration of the term of expulsion specified in the pupil's expulsion order. Early reinstatement conditions must relate to the reasons for the pupil's expulsion. If a school district administrator or designee determines that the pupil has satisfied the early reinstatement conditions, the pupil may be reinstated before the expiration of the term of the pupil's expulsion. If a pupil who received early reinstatement subsequently violates an early reinstatement condition before the expiration of the term of expulsion, the school board may revoke the pupil's early reinstatement.

This bill permits a school board other than the school board that expelled a pupil to establish enrollment conditions for the pupil. The bill defines "enrollment condition" as a condition that a pupil is required to meet before he or she may be granted conditional enrollment or a condition that a pupil is required to meet after his or her conditional enrollment but before the expiration of the term of expulsion specified in the pupil's expulsion order. The enrollment conditions must relate to the reasons for the pupil's expulsion from the expelling school district. The school district administrator or designee of the non-expelling school district may permit the pupil to conditionally enroll in a school located in that school district if the pupil satisfies the enrollment conditions, and may revoke conditional enrollment if the pupil subsequently violates the enrollment conditions. \*

2           **Insert 3-9**

3           NO  
4           ¶ If a pupil who has been expelled from a charter school established under s.  
5           118.40 (2r) seeks to enroll in a school district during the term of his or her expulsion,  
6           upon request of the pupil or, if the pupil is a minor, the pupil's parent or guardian,  
7           the governing body of the charter school shall provide the school board of the school  
8           district with a copy of the expulsion findings and order, a written explanation of the  
9           reasons why the pupil was expelled, and the term of the expulsion.

9           X       **Insert 3-10**

10          X       **SECTION 1.** 120.13 (1) (h) 1. a. of the statutes is renumbered 120.13 (1) (h) 1.  
11          am.

↓

INS 3-10  
cont

1           SECTION 2. 120.13 (1) (h) 1. ag. of the statutes is created to read:

2           120.13 (1) (h) 1. ag. "Conditional enrollment" means enrollment of an expelled  
3 pupil in a school district other than the school district that expelled the pupil before  
4 the expiration of the term of expulsion specified in the pupil's expulsion order under  
5 par. (c) 3. or (e) 3.

6           SECTION 3. 120.13 (1) (h) 1. c. of the statutes is created to read:

7           120.13 (1) (h) 1. c. "Enrollment condition" means a condition that a pupil is  
8 required to meet before he or she may be granted conditional enrollment or a  
9 condition that a pupil is required to meet after his or her conditional enrollment but  
10 before the expiration of the term of expulsion specified in the pupil's expulsion order  
11 under par. (c) 3. or (e) 3.

12           SECTION 4. 120.13 (1) (h) 2m. of the statutes is created to read:

13           120.13 (1) (h) 2m. A school board other than the school board that expelled a  
14 pupil may specify in a written order one or more enrollment conditions instead of or  
15 in addition to the early reinstatement conditions imposed under subd. 2. by the  
16 school board, or independent hearing panel or independent hearing officer acting  
17 under par. (e), that expelled the pupil. Any enrollment conditions established under  
18 this subdivision shall relate to the reasons for the pupil's expulsion and may not  
19 extend the term of expulsion specified in the expulsion order issued under par. (c) 3.  
20 or (e) 3. The school district clerk of the school district other than the school district  
21 from which the pupil was expelled shall mail two copies of the order to the pupil or,  
22 if the pupil is a minor, to the pupil's parent or guardian. The expelled pupil or, if the  
23 pupil is a minor, the pupil's parent or guardian shall sign and return one copy of the  
24 order to the school board other than the school board that expelled the pupil. Within  
25 15 days after the date on which the order under this subdivision is issued, the



INS 3-10  
CONT

LRB-1702/P3ins  
TKK:jld:rs

1 expelled pupil or, if the pupil is a minor, the pupil's parent or guardian may appeal  
2 the determination regarding whether an enrollment condition specified in the order  
3 is related to the reasons for the pupil's expulsion to the school board that specified  
4 the enrollment condition. The decision of the school board under this<sup>✓</sup> subdivision  
5 regarding that determination is final and not subject to appeal.<sup>✓</sup>

6 **SECTION 5.** 120.13 (1) (h) 3m.<sup>✓</sup> of the statutes is created to read:

7 120.13 (1) (h) 3m. If the school district administrator, or his or her designee,  
8 of a school district other than the school district from which a pupil was expelled  
9 determines that the pupil has met the<sup>✓</sup> enrollment conditions established in a written  
10 order under subd.<sup>✓</sup> 2m., the school district administrator or designee may grant the  
11 pupil conditional enrollment<sup>✓</sup> in a school in the school district. The determination of  
12 the school district administrator or designee under this<sup>✓</sup> subdivision is final.

13 **SECTION 6.** 120.13 (1) (h) 4.<sup>✓</sup> of the statutes is amended to read:

14 120.13 (1) (h) 4. If a pupil granted early reinstatement under subd. 3.<sup>✓</sup> violates  
15 an early reinstatement condition that the pupil was required to meet after his or her  
16 early reinstatement but before the expiration of the term of expulsion, the school  
17 district administrator or a principal or teacher designated by the school district  
18 administrator may revoke the pupil's early reinstatement. Before revoking the  
19 pupil's early reinstatement, the school district administrator or his or her designee  
20 shall advise the pupil of the reason for the proposed revocation, including the early  
21 reinstatement condition alleged to have been violated, provide the pupil an  
22 opportunity to present his or her explanation of the alleged violation, and make a  
23 determination that the pupil violated the early reinstatement condition and that  
24 revocation of the pupil's early reinstatement is appropriate. If the school district  
25 administrator or designee revokes the pupil's early reinstatement, the school district

↓

INS  
3-10 cont

1 administrator or designee shall give prompt written notice of the revocation and the  
2 reason for the revocation, including the early reinstatement condition violated, to the  
3 pupil and, if the pupil is a minor, to the pupil's parent or guardian.

History: 1973 c. 94, 290; 1975 c. 115, 321; 1977 c. 206, 211, 418, 429; 1979 c. 20, 202, 221, 301, 355; 1981 c. 96, 314, 335; 1983 a. 27, 193, 207, 339, 370, 518, 538; 1985 a. 29 ss. 1725e to 1726m, 1731; 1985 a. 101, 135, 211; 1985 a. 218 ss. 12, 13, 22; 1985 a. 332; 1987 a. 88, 187; 1989 a. 31, 201, 336, 359; 1991 a. 39, 226, 269; 1993 a. 16, 27, 284, 334, 399, 450, 481, 491; 1995 a. 27 ss. 4024, 9126 (19), 9145 (1); 1995 a. 29, 32, 33, 65, 75, 225, 235, 289, 439; 1997 a. 27, 155, 164, 191, 237, 335; 1999 a. 9, 19, 73, 83, 115, 128; 1999 a. 150 s. 672; 1999 a. 186; 2001 a. 38, 98, 103, 105; 2003 a. 254; 2005 a. 22, 194, 290, 346; 2005 a. 443 s. 265; 2007 a. 20 ss. 2738, 9121 (6) (a); 2007 a. 36, 70, 97; 2009 a. 14, 28, 76, 146, 185, 208, 218; 13.92 (2) (i).

4 **SECTION 7.** 120.13 (1) (h) 4m. of the statutes is created to read:

5 120.13 (1) (h) 4m. If a pupil granted conditional enrollment under subd. 3m.  
6 violates an enrollment condition that the pupil was required to meet after his or her  
7 conditional enrollment but before the expiration of the term of expulsion, the school  
8 district administrator of the school district in which the pupil is enrolled, or a  
9 principal or teacher designated by the school district administrator, may revoke the  
10 pupil's conditional enrollment. Before revoking the pupil's conditional enrollment,  
11 the school district administrator or his or her designee shall advise the pupil of the  
12 reason for the proposed revocation, including the enrollment condition alleged to  
13 have been violated, provide the pupil an opportunity to present his or her  
14 explanation of the alleged violation, and make a determination that the pupil  
15 violated the enrollment condition and that revocation of the pupil's conditional  
16 enrollment is appropriate. If the school district administrator or designee revokes  
17 the pupil's conditional enrollment, the school district administrator or designee shall  
18 give prompt written notice of the revocation and the reason for the revocation,  
19 including the enrollment condition violated, to the pupil and, if the pupil is a minor,  
20 to the pupil's parent or guardian.

21 **SECTION 8.** 120.13 (1) (h) 5m. of the statutes is created to read:

22 120.13 (1) (h) 5m. Except as provided in subd. 6m., if a pupil's conditional  
23 enrollment is revoked under subd. 4m., the pupil's expulsion shall continue to the



INS 3-10  
CONT

1 expiration of the term of the expulsion specified in the expulsion order unless the  
2 pupil or, if the pupil is a minor, the pupil's parent or guardian<sup>✓</sup> and the school board  
3 that expelled the pupil, or the independent hearing panel or independent hearing  
4 officer<sup>✓</sup>, agree, in writing, to modify the expulsion order<sup>✓</sup>.

5 **SECTION 9.** 120.13 (1) (h) 6m.<sup>✓</sup> of the statutes is created to read:

6 120.13 (1) (h) 6m. Within 5<sup>✓</sup> school days after the revocation of a pupil's  
7 conditional enrollment under subd. 4m.<sup>✓</sup>, the pupil or, if the pupil is a minor, the  
8 pupil's parent or guardian may request a conference with the administrator of the  
9 school district in which the pupil is enrolled, or his or her designee, who shall be  
10 someone other than a principal, administrator, or teacher in the pupil's school.<sup>✓</sup> If a  
11 conference is requested, it shall be held within 5<sup>✓</sup> school days following the request.  
12 If, after the conference, the school district administrator or his or her designee finds  
13 that the pupil did not violate an enrollment condition or that the revocation was  
14 inappropriate, the pupil shall be enrolled in school under the same enrollment  
15 conditions as in the order issued under subd. 2m.<sup>✓</sup> and the conditional enrollment  
16 revocation shall be expunged from the pupil's record.<sup>✓</sup> If the school district  
17 administrator or his or her designee finds that the pupil violated an enrollment  
18 condition and that the revocation was appropriate, he or she shall mail separate  
19 copies of the decision to the pupil and, if the pupil is a minor, to the pupil's parent or  
20 guardian<sup>✓</sup>. The decision of the school district administrator or his or her designee is  
21 final.

(end insert 3-10)

22 **Insert 3-18**

23 ~~(0)~~ <sup>#</sup>

23 The treatment of section 120.13 (1) (f) 2.<sup>✓</sup> of the statutes first applies to a  
24 pupil expelled from a public school in another state on the effective date of this  
25 subsection.<sup>✓</sup>

(end ins 3-18)

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1702/P3dn

TKK:jld:rs

date

Representative Kestell: ✓

This draft permits a school board other than the school board that expelled a pupil to establish "enrollment conditions" for an expelled pupil, and to grant the expelled pupil who satisfies the enrollment conditions conditional enrollment to a school in the school district other than the school district that enrolled the pupil. ✓

I chose to use separate phrasing (conditional enrollment and enrollment conditions rather than early reinstatement and early reinstatement conditions) to simplify and clarify phrasing in the different subdivisions of s. 120.13 (1) (h) ✓ and also because it did not seem accurate to say that a pupil enrolling in school in a new school district was being "reinstated" to school in the new school district. ✓ Despite the different terminology, the same rights, requirements, and procedures that apply to a pupil granted early reinstatement apply to a pupil granted conditional enrollment. Please let me know if you are not comfortable with this approach.

I have one question for you. Section 120.13 (1) (h) ✓ applies to the school district operating under ch. 119 (Milwaukee Public Schools or MPS). ✓ However, s. 119.25 permits MPS ✓ to utilize an alternative procedure for the expulsion of pupils. Do you want me to incorporate parallel provisions related to "conditional enrollment" and "enrollment conditions" in s. 119.25 so that, in those circumstances in which MPS utilizes the alternate procedures available under that ✓ section MPS may grant conditional enrollment to a non-MPS pupil? ✓

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**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1702/P3dn  
TKK:jld:rs

May 6, 2011

Representative Kestell:

This draft permits a school board other than the school board that expelled a pupil to establish "enrollment conditions" for an expelled pupil, and to grant the expelled pupil who satisfies the enrollment conditions conditional enrollment to a school in the school district other than the school district that enrolled the pupil.

I chose to use separate phrasing (conditional enrollment and enrollment conditions rather than early reinstatement and early reinstatement conditions) to simplify and clarify phrasing in the different subdivisions of s. 120.13 (1) (h) and also because it did not seem accurate to say that a pupil enrolling in school in a new school district was being "reinstated" to school in the new school district. Despite the different terminology, the same rights, requirements, and procedures that apply to a pupil granted early reinstatement apply to a pupil granted conditional enrollment. Please let me know if you are not comfortable with this approach.

I have one question for you. Section 120.13 (1) (h) applies to the school district operating under ch. 119 (Milwaukee Public Schools or MPS). However, s. 119.25 permits MPS to utilize an alternative procedure for the expulsion of pupils. Do you want me to incorporate parallel provisions related to "conditional enrollment" and "enrollment conditions" in s. 119.25 so that, in those circumstances in which MPS utilizes the alternate procedures available under that section MPS may grant conditional enrollment to a non-MPS pupil?

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State of Wisconsin  
2011 - 2012 LEGISLATURE



LRB-1702/P3  
TKK:jld:rs

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

1     **AN ACT** *to renumber* 120.13 (1) (f) and 120.13 (1) (h) 1. a.; *to amend* 120.13 (1)  
2             (h) 4.; and *to create* 118.40 (2r) (b) 2m., 120.13 (1) (f) 2. and 3., 120.13 (1) (h)  
3             1. ag., 120.13 (1) (h) 1. c., 120.13 (1) (h) 2m., 120.13 (1) (h) 3m., 120.13 (1) (h) 4m.,  
4             120.13 (1) (h) 5m. and 120.13 (1) (h) 6m. of the statutes; **relating to:** permitting  
5             a school board to deny enrollment to a pupil who has been expelled from an  
6             out-of-state school or from an independent charter school in this state and  
7             permitting an independent charter school to expel a pupil.

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***Analysis by the Legislative Reference Bureau***

Under current law, a school board may expel a pupil only if the pupil engaged in certain prohibited conduct while at school or while under the supervision of a school authority. Generally, the prohibited conduct is conduct that endangers the property, health, or safety of others or interferes with the ability of school authorities to maintain order or an educational atmosphere at school. Prior to expelling a pupil, the school board must follow certain procedures. These procedures include holding an expulsion hearing and providing the pupil and, if the pupil is a minor, his or her parent, with written and timely notice of the hearing.

Also under current law, a school board may refuse to enroll a pupil during the term of the pupil's expulsion from another school district. In an opinion issued on April 10, 2008, the Wisconsin attorney general determined that current law does not

permit a school district to refuse to enroll a pupil who is currently expelled from a private school or an out-of-state school.

Current law permits the University of Wisconsin (UW)-Milwaukee, UW-Parkside, the Milwaukee Area Technical College, and the city of Milwaukee to operate charter schools (independent charter schools) directly or to contract for the operation of charter schools. Generally, charter schools operate with fewer constraints than traditional public schools. Current law does not explicitly authorize an independent charter school to expel a pupil.

This bill permits an independent charter school to include in its charter or contract grounds for expelling a pupil provided the grounds duplicate the grounds provided under current law to school boards. If a charter or contract of an independent charter school includes grounds for expelling a pupil, the charter or contract must also include the same procedural requirements established for the expulsion of a pupil by a school board under current law.

This bill authorizes a school board to refuse to enroll a pupil during the term of the pupil's expulsion from a public school in another state if the grounds for the pupil's expulsion would have been grounds for expulsion in this state. This bill also permits a school board to refuse to enroll a pupil during the term of the pupil's expulsion from an independent charter school if the charter or contract of the independent charter school contains the grounds for expulsion and procedural requirements identified above.

Under current law, a school board may include early reinstatement conditions in an expulsion order issued for a pupil. Current law defines "early reinstatement condition" as a condition that a pupil must meet before he or she may be granted early reinstatement or a condition that a pupil must meet after his or her early reinstatement but before the expiration of the term of expulsion specified in the pupil's expulsion order. Early reinstatement conditions must relate to the reasons for the pupil's expulsion. If a school district administrator or designee determines that the pupil has satisfied the early reinstatement conditions, the pupil may be reinstated before the expiration of the term of the pupil's expulsion. If a pupil who received early reinstatement subsequently violates an early reinstatement condition before the expiration of the term of expulsion, the school board may revoke the pupil's early reinstatement.

This bill permits a school board other than the school board that expelled a pupil to establish enrollment conditions for the pupil. The bill defines "enrollment condition" as a condition that a pupil is required to meet before he or she may be granted conditional enrollment or a condition that a pupil is required to meet after his or her conditional enrollment but before the expiration of the term of expulsion specified in the pupil's expulsion order. The enrollment conditions must relate to the reasons for the pupil's expulsion from the expelling school district. The school district administrator or designee of the nonexpelling school district may permit the pupil to conditionally enroll in a school located in that school district if the pupil

satisfies the enrollment conditions, and may revoke conditional enrollment if the pupil subsequently violates the enrollment conditions.

---

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1       **SECTION 1.** 118.40 (2r) (b) 2m. of the statutes is created to read:

2       118.40 (2r) (b) 2m. a. A charter or contract may include grounds for expelling  
3 a pupil from the charter school, but the charter or contract may not include as a  
4 ground for expulsion any ground for expulsion other than the grounds for expulsion  
5 under s. 120.13 (1) (c) 1., 2., or 2m.

6       b. If the charter or contract includes grounds for expelling a pupil from the  
7 charter school as permitted under subd. 2m. a., the charter or contract shall include  
8 the procedures to be followed by the charter school prior to expelling a pupil. The  
9 procedures required under this subd. 2m. b. shall conform to the procedures specified  
10 under s. 120.13 (1) (c) 3. and 4. or to the procedures specified under s. 120.13 (1) (e).

11       **SECTION 2.** 120.13 (1) (f) of the statutes is renumbered 120.13 (1) (f) 1.

12       **SECTION 3.** 120.13 (1) (f) 2. and 3. of the statutes are created to read:

13       120.13 (1) (f) 2. No school board is required to enroll a pupil during the term  
14 of his or her expulsion from a public school in another state if the school board  
15 determines the conduct giving rise to the pupil's expulsion would have been grounds  
16 for expulsion under par. (c) 1., 2., or 2m.

17       3. No school board is required to enroll a pupil during the term of his or her  
18 expulsion from a charter school established under s. 118.40 (2r) if the charter or  
19 contract for the charter school contains the provisions specified under s. 118.40 (2r)  
20 (b) 2m. If a pupil who has been expelled from a charter school established under s.  
21 118.40 (2r) seeks to enroll in a school district during the term of his or her expulsion,



1 upon request of the pupil or, if the pupil is a minor, the pupil's parent or guardian,  
2 the governing body of the charter school shall provide the school board of the school  
3 district with a copy of the expulsion findings and order, a written explanation of the  
4 reasons why the pupil was expelled, and the term of the expulsion.

5 **SECTION 4.** 120.13 (1) (h) 1. a. of the statutes is renumbered 120.13 (1) (h) 1.  
6 am.

7 **SECTION 5.** 120.13 (1) (h) 1. ag. of the statutes is created to read:

8 120.13 (1) (h) 1. ag. "Conditional enrollment" means enrollment of an expelled  
9 pupil in a school district other than the school district that expelled the pupil before  
10 the expiration of the term of expulsion specified in the pupil's expulsion order under  
11 par. (c) 3. or (e) 3.

12 **SECTION 6.** 120.13 (1) (h) 1. c. of the statutes is created to read:

13 120.13 (1) (h) 1. c. "Enrollment condition" means a condition that a pupil is  
14 required to meet before he or she may be granted conditional enrollment or a  
15 condition that a pupil is required to meet after his or her conditional enrollment but  
16 before the expiration of the term of expulsion specified in the pupil's expulsion order  
17 under par. (c) 3. or (e) 3.

18 **SECTION 7.** 120.13 (1) (h) 2m. of the statutes is created to read:

19 120.13 (1) (h) 2m. A school board other than the school board that expelled a  
20 pupil may specify in a written order one or more enrollment conditions instead of or  
21 in addition to the early reinstatement conditions imposed under subd. 2. by the  
22 school board, or independent hearing panel or independent hearing officer acting  
23 under par. (e), that expelled the pupil. Any enrollment conditions established under  
24 this subdivision shall relate to the reasons for the pupil's expulsion and may not  
25 extend the term of expulsion specified in the expulsion order issued under par. (c) 3.

1 or (e) 3. The school district clerk of the school district other than the school district  
2 from which the pupil was expelled shall mail 2 copies of the order to the pupil or, if  
3 the pupil is a minor, to the pupil's parent or guardian. The expelled pupil or, if the  
4 pupil is a minor, the pupil's parent or guardian shall sign and return one copy of the  
5 order to the school board other than the school board that expelled the pupil. Within  
6 15 days after the date on which the order under this subdivision is issued, the  
7 expelled pupil or, if the pupil is a minor, the pupil's parent or guardian may appeal  
8 the determination regarding whether an enrollment condition specified in the order  
9 is related to the reasons for the pupil's expulsion to the school board that specified  
10 the enrollment condition. The decision of the school board under this subdivision  
11 regarding that determination is final and not subject to appeal.

12 **SECTION 8.** 120.13 (1) (h) 3m. of the statutes is created to read:

13 120.13 (1) (h) 3m. If the school district administrator, or his or her designee,  
14 of a school district other than the school district from which a pupil was expelled  
15 determines that the pupil has met the enrollment conditions established in a written  
16 order under subd. 2m., the school district administrator or designee may grant the  
17 pupil conditional enrollment in a school in the school district. The determination of  
18 the school district administrator or designee under this subdivision is final.

19 **SECTION 9.** 120.13 (1) (h) 4. of the statutes is amended to read:

20 120.13 (1) (h) 4. If a pupil granted early reinstatement under subd. 3. violates  
21 an early reinstatement condition that the pupil was required to meet after his or her  
22 early reinstatement but before the expiration of the term of expulsion, the school  
23 district administrator or a principal or teacher designated by the school district  
24 administrator may revoke the pupil's early reinstatement. Before revoking the  
25 pupil's early reinstatement, the school district administrator or his or her designee

1 shall advise the pupil of the reason for the proposed revocation, including the early  
2 reinstatement condition alleged to have been violated, provide the pupil an  
3 opportunity to present his or her explanation of the alleged violation, and make a  
4 determination that the pupil violated the early reinstatement condition and that  
5 revocation of the pupil's early reinstatement is appropriate. If the school district  
6 administrator or designee revokes the pupil's early reinstatement, the school district  
7 administrator or designee shall give prompt written notice of the revocation and the  
8 reason for the revocation, including the early reinstatement condition violated, to the  
9 pupil and, if the pupil is a minor, to the pupil's parent or guardian.

10 **SECTION 10.** 120.13 (1) (h) 4m. of the statutes is created to read:

11 120.13 (1) (h) 4m. If a pupil granted conditional enrollment under subd. 3m.  
12 violates an enrollment condition that the pupil was required to meet after his or her  
13 conditional enrollment but before the expiration of the term of expulsion, the school  
14 district administrator of the school district in which the pupil is enrolled, or a  
15 principal or teacher designated by the school district administrator, may revoke the  
16 pupil's conditional enrollment. Before revoking the pupil's conditional enrollment,  
17 the school district administrator or his or her designee shall advise the pupil of the  
18 reason for the proposed revocation, including the enrollment condition alleged to  
19 have been violated, provide the pupil an opportunity to present his or her  
20 explanation of the alleged violation, and make a determination that the pupil  
21 violated the enrollment condition and that revocation of the pupil's conditional  
22 enrollment is appropriate. If the school district administrator or designee revokes  
23 the pupil's conditional enrollment, the school district administrator or designee shall  
24 give prompt written notice of the revocation and the reason for the revocation,

1 including the enrollment condition violated, to the pupil and, if the pupil is a minor,  
2 to the pupil's parent or guardian.

3 **SECTION 11.** 120.13 (1) (h) 5m. of the statutes is created to read:

4 120.13 (1) (h) 5m. Except as provided in subd. 6m., if a pupil's conditional  
5 enrollment is revoked under subd. 4m., the pupil's expulsion shall continue to the  
6 expiration of the term of the expulsion specified in the expulsion order unless the  
7 pupil or, if the pupil is a minor, the pupil's parent or guardian and the school board  
8 that expelled the pupil, or the independent hearing panel or independent hearing  
9 officer, agree, in writing, to modify the expulsion order.

10 **SECTION 12.** 120.13 (1) (h) 6m. of the statutes is created to read:

11 120.13 (1) (h) 6m. Within 5 school days after the revocation of a pupil's  
12 conditional enrollment under subd. 4m., the pupil or, if the pupil is a minor, the  
13 pupil's parent or guardian may request a conference with the administrator of the  
14 school district in which the pupil is enrolled, or his or her designee, who shall be  
15 someone other than a principal, administrator, or teacher in the pupil's school. If a  
16 conference is requested, it shall be held within 5 school days following the request.  
17 If, after the conference, the school district administrator or his or her designee finds  
18 that the pupil did not violate an enrollment condition or that the revocation was  
19 inappropriate, the pupil shall be enrolled in school under the same enrollment  
20 conditions as in the order issued under subd. 2m. and the conditional enrollment  
21 revocation shall be expunged from the pupil's record. If the school district  
22 administrator or his or her designee finds that the pupil violated an enrollment  
23 condition and that the revocation was appropriate, he or she shall mail separate  
24 copies of the decision to the pupil and, if the pupil is a minor, to the pupil's parent or

1 guardian. The decision of the school district administrator or his or her designee is  
2 final.

3 **SECTION 13. Initial applicability.**

4 (1) The treatment of section 118.40 (2r) (b) 2m. of the statutes first applies to  
5 a charter or contract to establish and operate a charter school that is entered into,  
6 modified, or renewed on the effective date of this subsection.

7 (2) The treatment of section 120.13 (1) (f) 2. of the statutes first applies to a  
8 pupil expelled from a public school in another state on the effective date of this  
9 subsection.

10 (END)